

National Electrical Manufacturers Association Guidance on Energy Policy Act Energy Efficient Commercial Buildings Tax Deduction Certification Letters

To claim the accelerated Energy Efficient Commercial Buildings Deduction provided by Internal Revenue Code Section 179D in any tax year up to and including 2013, the taxpayer will need to first have the project certified.

The taxpayer is not required to attach the certification to the return on which the Commercial Buildings Tax Deduction is taken. However, the taxpayer must maintain such books and records sufficient to establish entitlement to, and amount of, any deduction claimed, per Section 1.6001-1(a) of the Income Tax Regulations. Taxpayers claiming the Commercial Buildings Tax Deduction under Section 179D, therefore, should retain the certification in its records.

The project must be certified by a qualified individual. According to [IRS Notice 2006-52](#), a qualified individual is a professional engineer or contractor properly licensed in the jurisdiction in which the building is located. This individual cannot work for the taxpayer claiming the Commercial Buildings Tax Deduction (i.e., not be "related" to the taxpayer within the meaning of Section 45(e)(4) of the Income Tax Regulations).

The certification document must contain the information stipulated in [IRS Notice 2006-52](#) for the Whole Building and Partial System deductions claimed using the Permanent Rule and [IRS Notice 2008-40](#) for the interior lighting deduction claimed using the Interim Lighting Rule.

This guidance document, produced by the National Electrical Manufacturers Association, discusses the information to be included in the certification letter provided by the qualified individual.

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CERTIFICATION LETTER PART 1: QUALIFICATIONS

Before claiming the Commercial Buildings Tax Deduction, according to IRS Notice 2006-52, the taxpayer must have the project certified by an engineer or contractor who 1) is properly licensed in the jurisdiction where the building is located, 2) doesn't work for the taxpayer, and 3) has notified the taxpayer in writing that he or she has the requisite qualifications to certify the project.

Below is an example statement of qualification:

*"I am a qualified individual according to the definition established in IRS Notice 2006-52 and have the requisite qualifications to provide the certification described in Section 4 and the inspection and testing described in Section 4.05 of IRS Notice 2006-52. I am a **{enter 'professional engineer' OR 'licensed contractor'}**, properly licensed in the jurisdiction where the energy efficient commercial property is located (**{enter your PE ID number OR contractor license number}**). I am not related to the taxpayer claiming the Energy Efficient Commercial Buildings Deduction in the meaning of Section 45(e)(4) of the Income Tax Regulations. My name, address and telephone number are **{enter your name, address and phone number}**."*

CERTIFICATION LETTER PART 2: BUILDING IDENTIFICATION

Identify the address of the building to which the certification applies:

*"This certification is of energy efficient commercial property installed in or on a commercial building located at **{insert building address}**."*

CERTIFICATION LETTER PART 3: STATEMENT ON ENERGY (OR LIGHTING POWER DENSITY) REDUCTION

Per [IRS Notice 2006-52](#) and [IRS Notice 2008-40](#), the certification of the energy efficient commercial building property should include a statement that the minimum target energy or lighting power density reduction has been achieved. While not specifically required, it should also include the size of the project being certified in square feet and, if applying under the Interim Lighting Rule, it should also include the building type and actual power density savings.

If modifying all qualifying building systems for the complete deduction under the Permanent Rule in Section 2.02(1)(a):

*"The interior lighting systems; heating, cooling, ventilation and hot water systems; and building envelope that have been, or are planned to be, incorporated into the building will reduce the total annual energy and power costs with respect to combined usage of the building's interior lighting and heating, cooling, ventilation and hot water systems by 50 percent or more as compared to a Reference Building that meets the minimum requirements of Standard 90.1-2001. The amount of such reduction has been made under the rules of IRS Notice 2006-52. The total area of the **{insert building type}** building that received the energy efficient commercial building property is **{insert area in square feet}** sq.ft."*

If modifying only the interior lighting system for a partial deduction under the Permanent Rule in Section 2.03(1)(a), amended by Section 7.01 of **IRS Notice 2008-40**:

*"The interior lighting systems that have been, or are planned to be, incorporated into the building will reduce the total annual energy and power costs with respect to combined usage of the building's interior lighting and heating, cooling, ventilation and hot water systems by **{enter '16-2/3 percent' or '20 percent,' whichever applies}** or more as compared to a Reference Building that meets the minimum requirements of Standard 90.1-2001. The amount of such reduction has been made under the rules of IRS Notice 2006-52 (and IRS Notice 2008-40). The total area of the **{insert building type}** building that received the energy efficient commercial building property is **{insert area in square feet}** sq.ft."*

If modifying only the interior lighting system for a deduction claimed under the Interim Lighting Rule in Section 2.03(1)(b), as amended by [IRS Notice 2008-40](#):

"The interior lighting systems that have been, or are planned to be, incorporated into the building (a) achieve a reduction in lighting power density of at least 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1-2001; (b) have controls and circuiting that comply fully with the mandatory and prescriptive requirements of Standard 90.1-2001; (c) include provision for bi-level switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, public lobbies and garages, and (d) meet the minimum requirements for calculated light levels as set forth in the IESNA Lighting Handbook, Performance and Application, Ninth Edition, 2000. The amount of the reduction has been made under the rules of IRS Notice 2006-52."

An additional statement can be made to include the building type, reference lighting power density, new lighting power density, lighting power density savings, and area of the project in square feet. If using ASHRAE/IESNA's Building Area Method:

*"The new lighting system investment was completed in a(n) **{insert type of building from ASHRAE/IESNA 90.1-2001 Table 9.3.1.1}** building. The ASHRAE/IESNA 90.1 lighting power density number for a(n) **{insert type of building again}** Building is **{insert lighting power density limit from Table 9.3.1.1}** watts/sq.ft. The newly installed lighting system operates at **{insert lighting power density number}** watts/sq.ft. This is a reduction of lighting power density of **{insert power density savings}**. The total area of the space/building that received a new lighting system is **{insert area}** sq.ft. This reduction has been determined under the Interim Lighting Rule of Notice 2006-52."*

If using ASHRAE/IESNA's Space by Space Method:

*"The new lighting system investment was completed in a **{enter building type}** building. The Space by Space Method in ASHRAE/IESNA Standard 90.1 was used to determine that the lighting power density number for the spaces receiving new interior lighting systems is **{enter calculated watts/sq.ft. value using ASHRAE/IESNA 90.1-2001's Space by Space Method using values in Table 9.3.1.2}**. The newly installed lighting system operates at **{enter calculated watts/sq.ft. of new interior lighting system}**. The Space by Space Method uses a "tabular approach" of evaluating the square footage of each space type to develop a unique lighting power density for the areas receiving the lighting systems. This is a reduction of lighting power density of **{insert percentage savings}**%. The total area of the building that received a new lighting system is **{insert area}** sq.ft. This reduction has been determined under the Interim Lighting Rule of IRS Notice 2006-52."*

If modifying only the heating and cooling systems for a partial deduction under the Permanent Rule in Section 2.03(1)(a), amended by Section 7.01 of IRS Notice 2008-40:

*"The heating, cooling, ventilation and hot water systems that have been, or are planned to be, incorporated into the building will reduce the total annual energy and power costs with respect to combined usage of the building's interior lighting and heating, cooling, ventilation and hot water systems by **{enter '16-2/3 percent' or '20 percent,' whichever applies}** or more as compared to a Reference Building that meets the minimum requirements of Standard 90.1-2001. The amount of such reduction has been made under the rules of IRS Notice 2006-52 (and IRS Notice 2008-40). The total area of the **{insert building type}** building that received the energy efficient commercial building property is **{insert area in square feet}** sq.ft."*

If modifying only the building envelope for a partial deduction under the Permanent Rule in Section 2.03(1)(a), amended by Section 7.01 of [IRS Notice 2008-40](#):

*"The building envelope that has been, or is planned to be, incorporated into the building will reduce the total annual energy and power costs with respect to combined usage of the building's interior lighting and heating, cooling, ventilation and hot water systems by **{enter '16-2/3 percent' or '10 percent,' whichever applies}** or more as compared to a Reference Building that meets the minimum requirements of Standard 90.1-2001. The amount of such reduction has been made under the rules of IRS Notice 2006-52 (and IRS Notice 2008-40). The total area of the **{insert building type}** building that received the energy efficient commercial building property is **{insert area in square feet}** sq.ft."*

CERTIFICATION LETTER PART 4: STATEMENT ON FIELD INSPECTIONS

Per [IRS Notice 2006-52](#) Section 4.05 (Permanent Rule) and [IRS Notice 2008-40](#) Section 5.02(4) (Interim Lighting Rule), the qualified individual must indicate in writing that the energy efficient commercial building property was inspected after being placed in service to confirm that it meets (or will meet) its energy savings targets. Field inspections must be performed in accordance with procedures contained in the National Renewable [Energy Laboratory's Energy Savings Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions](#) that are in effect at the time of the certification.

Below is an example statement if using the Permanent Rule:

"A qualified individual has field inspected the energy efficient commercial building property after it has been placed in service and confirmed that the building has met, or will meet, the energy-saving targets contained in the design plans and specifications. The field inspections were performed in accordance with any inspection and testing procedures that (1) have been prescribed by the National Renewable Energy Laboratory (NREL) as Energy Savings Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions, and that (2) were in effect at the time of certification."

Below is an example statement if using the Interim Lighting Rule. Note that guidelines for field inspections for the Interim Lighting Rule are covered briefly on Page 7 of the [Energy Savings Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions](#).

"A qualified individual has field inspected the energy efficient lighting property after it has been placed in service and has confirmed that it has met, or will meet, the reduction in lighting power density required by the design plans and specifications. In addition, each required space contains bi-level switching and meets minimum IES light level requirements. The field inspections were performed in accordance with inspection and testing procedures that (1) were prescribed by the National Renewable Energy Laboratory (NREL) as Energy Savings Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions, and that (2) were in effect at the time of certification."

CERTIFICATION LETTER PART 5: STATEMENT ON ENERGY EFFICIENCY FEATURES

Per [IRS Notice 2006-52](#) Section 4.06 and [IRS Notice 2008-40](#) Section 5.02(6), the certifying individual must indicate that the building owner has received an explanation of the energy efficiency features of the building, including projected energy-related performance.

Below is an example statement if using the Permanent Rule:

"The building owner has received an explanation of the energy efficiency features of the building and its projected annual energy costs."

Below is an example statement if using the Interim Lighting Rule:

"The building owner has received an explanation of the energy efficiency features of the building and its projected lighting power density."

CERTIFICATION LETTER PART 6: STATEMENT ON COMPUTER SOFTWARE

Per [IRS Notice 2006-52](#) Section 4.07, the certification must include a statement that qualified computer software (see Section 6 of [IRS Notice 2006-52](#), amended by [IRS Notice 2008-40](#) for an explanation, click here for the current list of Department of Energy-approved software) was used to calculate energy and power consumption and costs. The certification must identify what software was used. This software automates the Performance Rating Method procedures contained in Appendix G of ASHRAE 90.1-2004, including additional requirements from the 2005 California Title 24 Nonresidential Alternative Calculation Method Approval Manual, to calculate the energy performance of the Reference Building. While the project certifier must state that qualified software was used, any party can perform the actual analysis for the owner.